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 12 United States of America

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PDR

BY:

DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

Civil No. '08 CV 0074 IEG NLS

11 Plaintiff,

12 v.

13 \$23,120.00 IN US CURRENCY,

EX PARTE MOTION TO APPOINT
THE UNITED STATES MARSHAL
AS CUSTODIAN AND TO DEPOSIT
DEFENDANT CURRENCIES IN SEIZED
ASSETS DEPOSIT ACCOUNT AND TO
SUBSTITUTE THE RES14 ONE 2007 CHEVROLET AVALANCHE
15 TRUCK, CA LICENSE NO. 8E38789,
16 VIN 3GNEC12J17G138443, ITS TOOLS
AND APPURTENANCES,17 ONE 2003 AUDI QUATTRO SEDAN,
18 CA LICENSE NO. 5LKB440,
19 VIN WAULC68E73A197008, ITS TOOLS
AND APPURTENANCES,

20 \$1,200.00 IN U.S. CURRENCY,

21 Defendants.

22 COMES NOW the plaintiff, United States of America, and moves this Court for an exception
 23 to General Order 273 issued by this Court, that is, for an order appointing the United States Marshal as
 24 custodian of the defendants upon execution of the warrant of arrest in rem. In support of this motion,
 25 plaintiff states as follows:

26 1. The United States Marshals office has been staffed with personnel experienced in
 27 providing for the management of properties such as the defendants in this case.

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1 2. The United States Marshal has consented to assume responsibility for the protection,
2 maintenance, and safety of the defendants during the period the same remain in custodia legis.

3 3. The continued custody of the United States Marshal following execution of the warrant
4 of arrest in rem is necessary and in the best interests of the plaintiff in this case, given the nature of the
5 defendants and the expertise within the United States Marshals Service to provide for the management,
6 protection and preservation of the defendants.

7 4. The United States Marshal has established an account, the Seized Assets Deposit
8 Account, for the deposit of seized currency until further order of the Court. It is further requested that
9 the United States Marshal place the defendant currencies in the Seized Assets Deposit Account
10 administered by the United States Marshal. In the event any part of the defendant currencies is ordered
11 to be returned to any claimant, the Court may order the payment of interest thereon. Depositing seized
12 currency in such an account is proper. See, United States v. \$57,480.05, 722 F.2d 1457 (9th Cir. 1984)
13 (placing seized cash in bank account was not improper). The account credit of tangible dollars will
14 constitute an appropriate substitute for the original defendant currency or currencies (res). Id.

15 WHEREFORE, plaintiff respectfully requests that an exception to General Order No. 273 be
16 granted permitting the appointment of the United States Marshal as custodian of the defendants and that
17 the defendant currencies be deposited in the aforementioned account and the res be therefore substituted
18 in this action.

19 DATED: January 14, 2008

KAREN P. HEWITT
United States Attorney

David McRees

DAVID M. McNEES
Special Assistant U.S. Attorney